

1 KIM VELASQUEZ T-73607

2 C.S.A.T.F. SP. E-GYM-115-Low

3 PO. BOX. 5242

4 CORCORAN, CA. 93212

RECEIVED
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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6
7 IN THE UNITED STATES COURT FOR THE
8 NORTHERN DISTRICT OF CALIFORNIA
9

nc 10 KIM VELASQUEZ (plaintiff)

11 v

12 MONTEREY COUNTY; SALINAS
13 COUNTY JAIL et., al.
Respondent(s)

Case no: CV-07-6479 *TH*
ORDER GRANTING PLAINTIFF'S MOTION
TO STAY AND ABEYANCE. Instruction
for the clerk.

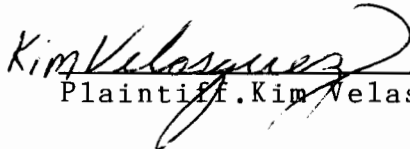
14
15 Plaintiff, Kim Velasquez, a state prisoner proceeding pro se
16 filed a 42 U.S.C. 1983 petition, on or about 12/19/07.

17 Now moves the above entitled court to dismiss the 42 U.S.C.
18 1983 petition without prejudice, and or grant a stay and abey-
19 ance, so as to cure deficiencies which are (presumably in the
20 best interest of the plaintiff.), unexhausted claims, and have
21 either, or, not been presented to all county, state courts and re-
22 pondents. Plaintiff, has requested from the county supervisors
23 claims response but to no avail. Plaintiff, has also filed a bo-
24 ard of control claim, which was rejected, based on non-jurisdic-
25 tion. Plaintiff, has been in and out of medical treatment/medica-
26 tions for the last two years, due too the trauma involved.
27 Claimant is a ADA, and presently being assisted by NEXT FRIEND, Ri-
28 chard Lopez.

DECLARATION

I KIM VELASQUEZ, DO DECLARE UNDER THE PENALTY OF PERJURY, THAT THE
FORTHGOING INFORMATION IS TRUE TO THE BEST OF MY KNOWLEDGE, HEREIN
AT C.S.A.T.F. SP. PO.BOX.5242.CORCORAN, CA.93212.

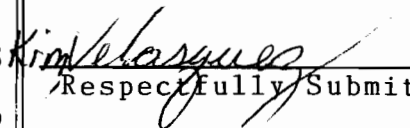
Dated: 2/5/08.


Plaintiff. Kim Velasquez


Next friend. Richard Lopez

1 Plaintiff, does not deliberately abuse the writ (1) he left cl-
2 aims out of a previous federal petition because he believed in
3 good faith that his claims would be barred untill he had exha-
4 uted state remedies. Sanders v US (1983) 373 US 118. Neyschafer
5 v Whitley (CA9. 1988) 860 F.2d 1470,1472. In re Catalano (1981)
6 29 Cal.3d 1 171 Cal Rptr. 667.).

7 If the petition is not frivolous, but is simply deficient in
8 some way that can be remedied by amending it, the preferable
9 procedure is for the court to dismiss the petition with leave
10 to amend, noting the deficiency. Pembroke v Wilson (9th Cir -
11 1966) 370 F.2d 37. Noll v Calson (9th Cir 1987)809 F.2d 1446;
12 "Next Friend" petitions should be used only if there is no oth-
13 er alternative.,Whitmore v Arkansas (1990) 495 US 149,161.
14 Wilson v Dixon (9th Cir 1958) 256 F.2d 536.

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18  Respectfully Submitted.
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PROOF OF SERVICE BY MAIL

[CCP sec.1013A & 2015.5; 28 U. S. C. sec. 1746]

I, Kim Velasquez AM A RESIDENT OF THE COUNTY OF _____, STATE OF CALIFORNIA; I AM OVER THE AGE OF EIGHTEEN (18) YEARS AND (NOT) (A) PARTY TO THE FOREGOING ATTACHED CAUSE OF ACTION. MY CURRENT ADDRESS IS:

(NAME)(CDC#)
(BLDG. & CELL #)
PO Box #
CSATF/SP
CORCORAN, CALIFORNIA 93212-5242

ON THE 5 DAY OF Feb., 2008, I SERVED OR CAUSED TO BE SERVED THE FOLLOWING DOCUMENTS:

1. Motion to stay
2. _____
3. _____
4. _____
5. _____

ON THE FOLLOWING NAMED PARTY(S), AND ADDRESSED AS FOLLOWS:

- | | |
|-------------------------|-------------------------------|
| 1. <u>Northern Dist</u> | 2. <u>Eastern Dist. Court</u> |
| <u>U.S. Court</u> | <u>for Fresno, Ca</u> |
| <u>San Francisco</u> | _____ |
| <u>Ca.</u> | _____ |
| 3. _____ | 4. _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

THERE IS REGULAR DELIVERY BY UNITED STATES MAIL AT THE PLACE ADDRESSED, AND/OR THERE IS REGULAR COMMUNICATION BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Feb, 5 2008

Kim Velasquez
DECLARANT / PETITIONER / PLAINTIFF IN PRO PER